

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ANHEUSER-BUSCH, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>LARIMER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 62104</p>
<p>ORDER</p>	

I. Procedural Background

THIS MATTER was heard by the Board of Assessment Appeals on March 25 and 26, 2014 and April 18, 2014, Diane M. DeVries, MaryKay Kelley and Gregg Near presiding. Petitioner was represented by Alan Poe, Esq. Respondent was represented by William Ressue, Esq. Petitioner is protesting the 2013 actual value of the subject property.

The Board issued a decision in this matter on May 22, 2014. Petitioner appealed the Board's decision to the Colorado Court of Appeals.

The Court of Appeals concluded that certain of the Board's conclusions underlying its valuation were not supported by competent evidence. In an unpublished opinion announced on July 2, 2015, the Court of Appeals reversed the Board's order and remanded the matter to the Board for further proceeding on Petitioner's petition consistent with the Court of Appeals' opinion. The mandate was issued on August 26, 2015.

Specifically, the Court of Appeals ordered the Board on remand to re-determine the value of the subject property and in so doing explain its analysis sufficiently to allow the parties and the appellate court (in the event the new valuation is appealed) to understand the basis for the Board's decision.

The Court of Appeals pointed out the following errors requiring the Board to re-determine the value of the subject property:

1. The Court of Appeals determined that the Board's doubling of the per unit price in adjusting Petitioner's market approach was in error. The Court determined that this error alone required reversal and remand for a redetermination of value by the Board.
2. The Court of Appeals determined that the Board failed to either apply the parties' stipulation regarding \$3,600,000 in roof repairs in analyzing the cost approach or explain why it rejected the stipulation. On remand, the Court ordered the Board to either accept and use the stipulated \$3,600,000 in roof repairs in its analysis of the cost approach or explain why it decided to reject the parties' stipulation.
3. The Court of Appeals determined that the Board incorrectly concluded that Petitioner's cost approach analysis did not separately adjust for physical depreciation and external obsolescence, even though those adjustments were included in Petitioner's appraisal (which was stipulated into evidence) and Petitioner's expert witness testified to the adjustments at the hearing. On remand, the Court ordered the Board to consider those adjustments.

In this regard, the Court of Appeals ordered the Board to reconsider the physical depreciation percentage used by the Board in analyzing the cost approach, specifically considering the 51.2 percent physical depreciation figure used by Petitioner's expert witness. The Court of Appeals did not order the Board to apply the 51.2 percent figure.

Also in this regard, the Court of Appeals ordered the Board to reconsider the external obsolescence figure used by the Board in analyzing the cost approach, specifically considering the 55 percent external obsolescence figure used by Petitioner's expert witness. The Court of Appeals did not order the Board to apply the 55 percent figure, and pointed out that there is competent evidence in the record for using the 4.5 percent figure that the Board applied (the testimony of Respondent's expert witness).

Upon receiving the mandate, the Board proceeded to review the entire written transcript of the hearing. This written transcript was not available to the Board at the time it issued its original decision. The Board also reviewed all exhibits admitted at the hearing. The Board also considered inquiries from the parties about whether they should file a motion asking for oral argument or some other proceeding with respect to the appeal. However, the Board did not ask for or receive additional oral argument or other information from the parties. Based on the Board's review as described herein and the Court of Appeals' order to re-determine the value of the subject property consistent with the Court of Appeals' opinion, the Board issues the following decision.

II. Decision

During the 2014 hearing, the parties stipulated to the admission of all exhibits, the expert witnesses, the size of the building improvements, cost of needed roof repairs and the land value.

Subject property is described as follows:

**2351 Busch Drive
Fort Collins, Colorado 80524-9400
Larimer County Schedule No. R1180649**

The subject consists of real property containing the Anheuser-Busch Fort Collins Brewery. The majority of the building improvements were constructed in 1988 with an expansion in 2002. The brewery is located on a 125 acre parcel contained within a larger land ownership of 1,130 acres. As of 2012, the company rated the facility as capable of producing approximately 10,300,000 barrels of beer. The improvements consist of several types of structures ranging from brew houses and fermentation cellars to typical small warehouse buildings with a total area of 1,296,580 square feet. The improvements have undergone partial replacement of roofing during 2013 with completion expected in 2015 for a total cost of \$3,600,000.

Petitioner presented the following indicators of value:

Market:	\$28,000,000
Cost:	\$29,000,000
Income:	Not applied

Petitioner is requesting an actual value of \$28,650,000 for the subject property for tax year 2013.

Petitioner's appraiser Mr. Thomas H. Slack, a Certified General Appraiser, presented a market approach consisting of two comparable sales ranging in sale price from \$10,000,000 to \$23,060,000 and in size from 901,116 (net) to 1,205,437 (gross) square feet. After adjustments were made, the sales ranged from \$18.67 to \$20.02 per square foot of gross building area. Mr. Slack concluded to a unit value of \$20.00 per square foot resulting in a value opinion of \$26,000,000. The witness also considered the transactions based on improvement values only (after subtracting out land value) and by production capacity in barrels. A fourth approach based upon sales and listings of large industrial properties, as an alternate use, was also presented. The indications ranged from \$18,000,000 (\$/SF) to \$41,000,000 (\$/Barrel), and Mr. Slack concluded to a value by the market approach of \$28,000,000.

Mr. Slack presented a cost approach to derive a market-adjusted cost value for the subject property of \$29,000,000.

The witness relied upon the Marshall Valuation Service, a state approved cost estimating service, to estimate the cost new of sixteen different types of improvements, grain silos and miscellaneous additional items to determine a total replacement cost new of \$109.08 per square foot. In using the replacement cost, Mr. Slack subtracted 75,000 square feet of unnecessary packing space, 13,300 square feet of unused office and 77,200 square feet of enclosure around the fermentation equipment. These items were considered over improvements and would not be replaced in new construction. Additional reductions would be applied to masonry construction because new facilities would be constructed of insulated metal panels instead.

The size of the replacement improvements was estimated to be 1,131,069 square feet. The replacement cost new of the improvements was estimated to be \$123,376,453, resulting in a replacement cost new per square foot of \$109.08.

Mr. Slack estimated depreciation from all causes by market extraction. Having obtained significant data from Sale 1 in the market approach, Mr. Slack compared the estimated replacement cost of that facility of \$83,447,661 to the sale price of \$10,000,000. Subtraction of the land value from the sale price indicates a loss from all causes of \$75,647,661, or, 90.7%. A similar, more abbreviated, procedure was applied to Sale 2 resulting in a total depreciation conclusion of 91.2%. Mr. Slack balanced the subject's condition and age against its large size and design and used his appraisal judgment to come up with an estimate of 80% of replacement cost for all forms of depreciation. The land cost was added to the depreciated cost of the improvements resulting in a concluded value of \$29,000,000.

Relying primarily upon the conclusion obtained in the market approach, Mr. Slack reconciled to a final value opinion of \$28,000,000.

Respondent assigned a value of \$115,000,000 for the subject property for tax year 2013 but is recommending a reduction to \$108,550,000.

Respondent presented the following indicators of value:

Market:	Not applied
Cost:	\$112,892,000
Income:	Not applied

Respondent's appraiser Mr. Peter D. Bowes, a Certified General Appraiser, also used the Marshall Valuation Service to derive a market-adjusted cost value for the subject property of \$112,892,000. As a result of the stipulations, the opinion above was modified as follows:

Value Opinion:	\$112,892,000
Reduction to stipulated land value (\$5,492,000 to \$4,750,000)	(\$742,000)
Roof repairs	(\$3,600,000)
Adjusted Value Opinion:	\$108,550,000

Mr. Bowes described the subject as a “special purpose” property and referenced the definition from the Dictionary of Real Estate Appraisal, 5th Edition:

A property with a unique physical design, special construction materials or a layout that particularly adapts its utility to the use for which it was built; also called special-design property.

Mr. Bowes identified the subject as a “1st Generation” property; improvements constructed for the purposes of the user with no intent to sell or lease. As a result there are no sales or leases of similar properties to consider, which leaves the cost approach as the only usable and recognized method of valuation.

In application of the cost approach, Mr. Bowes concentrated on four of the 16 buildings comprising the property. The buildings, numbers 1, 2, 4 and 6, represented the areas where Petitioner and Respondent have the widest gap in the development cost. The remaining improvements presented no significant areas of disagreement between the parties.

Building 1, identified as the brew house and fermentation cellars, contains a total of 304,864 square feet. Mr. Bowes considered this section as heavy industrial manufacturing construction, and Mr. Slack described this as two separate portions at different, and lower, costs. Building 2, the beer packaging and shipping portion, was considered as a blend of an industrial light manufacturing and distribution warehouse of good to average quality by Mr. Bowes, but Mr. Slack considered this area to be a blend of mega warehouse and packaging; both average quality. Building 4, the power house, was considered heavy industrial manufacturing by Mr. Bowes and an industrial shell by Mr. Slack. Building 6, the stable housing the Budweiser Clydesdales, was approached as a high value estate stable by Mr. Bowes and simply as a good quality stable by Slack.

Mr. Bowes concluded to a total replacement cost new including "add ons" (e.g. elevators, paving, porches etc.) of \$197,941,240. Physical depreciation was considered based upon a blend of the Marshall Valuation tables and straight line with greater weight given to the straight line analysis resulting in a RCNLD of \$114,292,000. Mr. Bowes determined a functional adjustment to be appropriate for unused office areas to reach a figure of \$112,461,000 prior to considering external obsolescence. After considering confidential operating data Mr. Bowes determined an adjustment of 4.5%, representing actual production less structural loss compared to capacity of the operation. After deduction for external obsolescence, the indicated value of the improvements after deduction for all forms of depreciation was \$107,400,000.

Petitioner presented Mr. Wayne L. Hunsperger, a Certified General Appraiser, as a rebuttal witness to Mr. Bowes' testimony. Mr. Hunsperger testified he had read both reports and was requested to comment on both. Mr. Hunsperger testified Mr. Slack's appraisal was the more complete with a thorough analysis of the market and the beer industry. Although it is not necessary to use the market approach, the appraiser must look at it for insight. This was not done in Mr. Bowes' report. Mr. Hunsperger also took issue with the concept of a "1st generation sale" as under that definition there could never be a comparable sale. The witness pointed to a number of properties such as churches, bowling alleys and specialized manufacturing plants where

consideration of the value in use is appropriate but that a look at the market for these properties must be undertaken for proper valuation.

Petitioner's witness Mr. Tim Seitz, Senior Resident Engineer at the facility, provided testimony regarding the physical structure and function of the brewery. Mr. Seitz stated the office building was too big for today's standards and there would be no need to replace about 25% of the first floor or to repair one of the three existing elevators. The witness pointed to higher operational costs for taller structures and indicated modern construction would not utilize the subject's design. The subject's large packaging and warehouse areas would not be reproduced today due to modern "just in time" materials handling. Mr. Seitz suggested that construction of a new facility would require a single brewhouse; fermenting tanks would not be in an enclosed structure; the office area would be reduced and the warehouse/packaging building should be 75,000 square foot smaller.

Petitioner contends:

1. Respondent's analysis is based on faulty assumptions. Respondent's appraiser failed to present a market approach, assuming that transactions of first generation buildings of this sort do not occur.
2. Large portions of the improvements would not be rebuilt today.
3. Portions of the facility that are of masonry construction would be replaced with insulated metal panels.
4. Declines in the beer industry have only been reversed by craft brewers using specific gravity brewing techniques. The subject would be capable of only 7 mill BBls m/l in specific gravity configuration.
5. The entire beer industry is over capacity so the subject is obsolete and production could be assumed by other breweries.
6. No breweries of this size have been constructed in the last 26 years.
7. There is an insufficient local population to support brewery capacity.
8. Miller/Coors is at 60% capacity and is shifting production to the east coast.
9. Respondent's appraiser overestimated the quality of construction.
10. Respondent has completed a "use value" not an "actual" value.
11. There are no buyers for a 10.3 M bbl brewery. Growth is all in smaller, craft brewers.

Respondent contends:

1. The subject is a "special purpose" facility for which there are no similar sales. The cost approach is the only reasonable method of valuation.
2. Colorado law states only "applicable" approaches need be presented.
3. There are no "1st Generation" sales available. Second generation facilities are typically modified or converted to a different use.
4. Petitioner's sales were not "1st Generation" as some were modified. Petitioner's Sale 3 was used only for packaging, distribution and brewing tea.
5. Economic obsolescence is minor as the plant is operating at near capacity.
6. All areas of the distribution and packaging warehouse were in operation at the inspection, so no functional obsolescence was observed. The office areas were functional and not as useless as Petitioner contends.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect.

The Board finds the core of the dispute is whether the brewery is obsolete or not. Petitioner points to declines in consumption of high gravity type beers that began more than two decades ago, a dearth of sales of any type of brewery, and no sales of any breweries as large as the subject.

Respondent, on the other hand, notes the subject brewery is operating at near maximum capacity and, with the exception of some unused office space, is a functional property.

The Board finds the subject property is functioning quite well with production at approximately 90-95% of capacity. While Petitioner's witness (Mr. Slack) presented a very clear exposition of the beer industry, including how emerging trends in consumer tastes have resulted in expansion of small, craft brewers at the expense of the national brands, the Board is not convinced that the increase in craft brew sales or the current over capacity on a national basis, largely related to multiple brewers in the denser portions of the eastern and southern U.S., has exerted an enormous influence on the subject property. The Board finds that any decline in the consumption of national brand beers, such as Coors and Budweiser, has not had much impact on the production of beer at the subject property.

Petitioner's appraiser stated that brewers want to be near populated areas. Yet, population within 500 miles of the subject is 1/3 to 1/10 that of the comparable sales presented. In respect to the beer industry, the closest brewer other than Golden, CO is in Ft. Worth, TX. Petitioner's appraiser also stated that there is not very much distribution at all between St. Louis and California. The Board is convinced that the subject property serves a large and significant distribution area that includes the northwest United States.

To the Board, it was clearly a business decision to construct a "special purpose" high capacity plant in 1988 (when growth in the beer industry in the United States was beginning to decline) and then expand it by 25% fourteen years later (even though overall domestic beer production was continuing to decline). As the subject brewery continues to operate at near capacity, these business decisions appear to have been good ones -- at least as of the 2013 tax year in question.

While Petitioner presented convincing arguments there are no outside craft brewers big enough and with a large enough market to acquire 10.3 million BBLs of additional capacity, the Board believes that a sale of the subject brewery could occur as part of a merger transaction (for example, Molson/Coors—Miller/Coors—InBev) as opposed to an outright sale, especially given the demand for the type of beer currently being brewed at the subject property. The Board also believes that the sale of the subject property could be to another entity who would continue to brew the type of beer currently being brewed there. The Board notes that, according to Petitioner's appraiser, the third largest brewer in the United States (Pabst Brewing Company) no longer brews its own beer. The Board can envision a scenario where Petitioner might sell the subject property as part of a transaction where the buyer would continue to brew Petitioner's products.

The Board is convinced the subject is a special purpose property and is swayed by Petitioner's argument that Respondent made no effort to apply a market approach. The 14th Edition of The Appraisal of Real Estate provides the following:

An opinion of market value requires that there be a market for the property. If there are no buyers for the subject property in its current use, an alternative use must be considered. Using the cost approach to value a special-use property where no market exists will usually overstate the market value of the property unless a deduction is made to reflect the lack of a market. (Emphasis added by the Board)

Because the subject property is a special use property, the Board believes that the use of a market approach is helpful in order to ensure that the property is not being overvalued by using only the cost approach.

Market Approach Analysis

The Court of Appeals ordered the Board to re-determine the value of the subject property, and in so doing explain its analysis sufficiently to allow the parties and the appellate court (in the event the new valuation is appealed) to understand the basis for the Board's decision. To that end, the Board has revisited Petitioner's market approach.

The Board does not believe the market approach prepared by Petitioner's appraiser, Mr. Slack, is credible. The Board notes the following problems with Mr. Slack's comparable sales adjustment grid on page 58 (upper right hand corner) of his report ("Petitioner's Grid"):

1. Each adjustment in Petitioner's Grid was applied to the number resulting from the previous adjustment rather than individually applying each adjustment to the adjusted dollar per square foot sales price (which is determined after taking into account any deferred maintenance of the comparable property at the time of sale). This approach, which does not adhere to customary appraisal methodology, may have overstated certain adjustments and understated others.
2. Mr. Slack's analysis within Petitioner's Grid included mixed percentage and dollar adjustments, making the analysis confusing and difficult to follow.
3. Mr. Slack's explanation of the adjustments was often minimal and difficult to understand, making the adjustments difficult to replicate.
4. Mr. Slack incorrectly used 901,116 square feet in his analysis of Sale 2 in Petitioner's Grid. This was the net square feet – not the gross square feet of the property. Mr. Slack testified that the total gross building square feet of Sale 2 was "about 920,000 square feet", and his report indicates that Sale 2 has 920,234 gross building area square feet (page 126 in the upper right hand corner of Petitioner's Exhibit 6).
5. Sales 3 and 4 in Petitioner's Grid occurred outside of the appropriate base period and cannot be considered.

6. The Board does not believe Sale 1 in Petitioner's Grid was an appropriate sale to be analyzed. This sale involved the sale of a property in Memphis, Tennessee in 2011. At the time of sale, the property had an effective age of 39 years, compared to the subject property's effective age of 22 years. At the time of sale, it was being used as a packaging and distribution facility. The property was used to brew tea and beer, but not a great deal of it. The purchaser in Sale 1 was not a large national brewer of its own products but an independent contract brewer (City Brewing) who purchased the brewery from a company who was also not a large national brewer (Chism Hardy). The previous owner, Coors, used the property for blending, packaging and shipping. They did not brew beer there. Coors sold the property to Chism Hardy as surplus property after Coors expanded a plant in Virginia that Coors had built in 1997 to blend, package and distribute beer products.

The Board agrees with Respondent's witness, Mr. Bowes, that Sale 1 is not sufficiently comparable to the subject property. Sale 1 has had 4 different owners, while the subject property was built by Petitioner for its own use. The Board finds that Sale 1 was not representative of a similar highest and best use as the subject property due to its multiple ownerships, modifications, minimal brewing operation at the time of sale and the fact that the brewery was purchased by City Brewing for use as a contract brewing facility.

Furthermore, the Board believes that Coors would not have sold the Memphis property for a fraction of what it had invested had there been a sufficient demand for brewing beer at the property. The Board is not convinced that the subject property, which has more than twice the capacity of the Memphis property and is brewing beer at 90-95% capacity, is in a similar situation. These factors significantly limit the usefulness of Sale 1 as a comparable property.

7. The Board finds Mr. Slack's analysis of Sale 2 is not credible. Specifically, the Board finds that Mr. Slack did not correctly adjust for deferred maintenance and should have included an adjustment for time/market conditions. The Board also finds that Mr. Slack inappropriately adjusted Sale 2 for location, competition, size and land/building ratio.

The Board believes that Sale 2 in Petitioner's Grid can be used in the market approach with appropriate adjustments. This property was purchased by Boston Beer for its own use in 2008 during the extended base period. Boston Beer was a former tenant of this brewery and brewed its products at the property from 1994 to 2001 as a tenant of the second generation owner, Pabst. Boston Beer purchased the brewery with the intent to use 1.4 million barrels of the 4.4 million barrel capacity. At time of purchase, a Boston Beer spokesperson described the property as "a great brew house". The Board believes Boston Beer's familiarity and former use of the property makes it less like a fourth generation purchaser than the purchaser in Sale 1. Also, unlike the purchaser of Sale 1, Boston Beer brews its own products and sells them nationally. And, like the subject, Sale 2 also has two brew houses.

Following is a grid showing the Board's analysis of Sale 2:

Name	Subject	Sale 2-BAA	Comment
Address	Ft. Collins, CO	Pennsylvania	
Year Built	1990	1972	
Age @ Sale	22	36	
Land Area	5,437,288	3,005,727	
Land:Bldg.	4.19	3.27	Ratio based on corrected size
Capacity BBL	10,300,000	4,400,000	
Price/Barrel		\$5.24	
BBLs/GBSF	7.9	4.78	Based on corrected size
Sale Date		6/08	
Sale Price		\$23,060,000	
Gross Bldg. SF	1,296,580	920,234	Corrected size
\$/Gross Bldg SF		\$25.06	
Condition/Deferred Maintenance		+\$1.36	See "Condition Adjustment" below
Adj. \$/SF		\$26.42	
Time/Market Conditions		+\$6.61	See "Time/Market Adjustment" below
Age		+\$7.40	See "Age" Adjustment below
Efficiency		+\$17.47	See "Efficiency Adjustment below"
Land to Building Ratio		+0	See "Land to Building Ratio Adjustment" Below
Location		(+)(a)	+(a) Qualitative adjustment indicating an addition for location is appropriate
Competition		+0	See "Competition Adjustment" below
Size		+0	See "Size Adjustment" below
Total Adjustment:		>\$31.48	
Adj. \$/SF		>\$57.90	
Adjusted Sales Price		>\$75,071,982	

Following are the Board's comments regarding the above adjustments to Sale 2:

Condition Adjustment.

Mr. Slack made negative dollar adjustment of \$1.38 to Sale 2 for "condition", indicating that the condition of the Sale 2 property was superior to the condition of the subject.

The Board finds that Mr. Slack did not correctly adjust for deferred maintenance. When a property is sold, the seller of the property is either required to correct deferred maintenance as a condition of sale or the buyer of the property assumes responsibility to correct the deferred maintenance. In the latter case (which is the case with Sale 2), the cost of the deferred

maintenance is treated as an additional cost of purchase for the buyer. In such event, the cost of deferred maintenance per square foot is added to the price per gross building square foot in order to reach the adjusted price per gross square foot which is the basis for all other adjustments.

Using the correct gross building square footage of 920,234, the correct price per gross building square foot for Sale 2 was \$25.06 (\$23,060,000 divided by 920,234). The correct adjustment for the \$1,250,000 in deferred maintenance for Sale 2 should have been a positive \$1.36 (\$1,250,000 divided by 920,234), resulting in an adjusted price per gross square foot of \$26.42 (\$25.06 plus \$1.36). All other adjustments should have been based on the \$26.42 adjusted price per gross square foot.

Time/Market Adjustment.

Mr. Slack chose not to apply an adjustment for time/market conditions. The Board has determined that an adjustment for time/market conditions is appropriate. Mr. Slack's report shows that the Memphis brewery was sold by Coors in July 2006 (Sale 3) for \$6,000,000. The same property sold in May 2011 (Sale 1) for \$10,000,000, indicating increasing prices. According to Mr. Slack's own testimony, Carolyn Hardy (who was the purchaser in the 2006 transaction and the seller in the 2011 transaction relating to the Memphis brewery) said she didn't really intend to sell in 2011, but that the offer she received was for so much money that she couldn't refuse it. Mr. Slack also testified that the buyer of the Sale 2 property in Pennsylvania, "went looking" to buy a brewery that they could own and brew their own beer. These factors clearly suggest an active market with buyers approaching sellers – a market where time/market condition adjustments are warranted.

Sale 2 was consummated in June of 2008 during the recession. By the June 30, 2012 valuation date, improvement in the brewery market was measurable. The data from the sale and re-sale of the Memphis brewery suggests a time/market condition adjustment as high as 13% per year (straight line) from the June 2, 2008 sale date of Sale 2 to the June 30, 2012 valuation date might be appropriate. The Board notes, however, that the original sale of the Memphis brewery in 2006 may have been artificially low since the property was sold as surplus. Consequently, the increase in the value of the property by 2011 might not have been totally attributable to time/market conditions.

For additional guidance, the Board turned to Respondent's land value analysis (see pages 86 and 87 in the lower right hand corner of Respondent's Exhibit A). Respondent's land sale 3 and 4 are similar in location, size and proposed use. Sale 3 occurred in 2009 for \$2.39 per square foot. Sale 4, 38 months later, sold for \$2.81 per square foot. The two sales suggest an improving market, in the subject location, at approximately 0.5% per month (or nearly 6% per year). Based on this analysis, the Board believes a 25% adjustment to Sale 2 for time/market conditions is warranted. The Board's adjustment to Sale 2 for time/market conditions is \$6.61 (\$26.42 times 25%) per gross building square foot.

Age Adjustment.

Mr. Slack made a positive 28% adjustment to Sale 2 for "age", in order to account for the fact that the subject property is newer than the comparable properties.

The Board finds Mr. Slack's adjustments for age reasonable. For purposes of its analysis of Sale 2, the Board will use Mr. Slack's age adjustment. The Board's adjustment to Sale 2 for age is \$7.40 (\$26.42 times 28%) per gross building square foot.

Efficiency Adjustment.

In the Size/Design-Quality section of his report, Mr. Slack made a positive dollar adjustment to Sale 2 for efficient design.

The Board finds Mr. Slack's adjustment for efficiency (corrected for the correct gross building square feet) reasonable. The Board's adjustment to Sale 2 for efficiency is \$17.47 [4,400,000 divided by 920,234 square feet = 4.78 barrels per square foot. 7.94 barrels per square foot for the subject divided by 4.78 barrels per square foot for Sale 2 = 1.6611. 1.6611 times \$26.42 = \$43.89. \$43.89 – \$26.42 = \$17.47].

Land to Building Ratio Adjustment.

The Board has considered Mr. Slack's land to building adjustments and does not agree with his approach. The subject, at a ratio of 4.19:1 is compared to Sale 2 with a (corrected) ratio of 3.27:1. As there is less than one unit of difference between the properties, the board does not believe an adjustment is required at all for land to building ratio. The Board believes that any excess land of the subject property would already be accounted for in the adjustment for efficiency. No adjustment is made by the Board for land to building ratio.

Location Adjustment.

Mr. Slack made a 45% negative adjustment to Sale 2 for "location", indicating that the location of Sale 2 is superior to the location of the subject property.

In making the decision to locate the subject property in Fort Collins, Anheuser-Busch representatives told Mr. Slack that Anheuser-Busch "wanted a brewery to serve the northwest portion of the country". Nevertheless, Mr. Slack made a large negative location adjustment based on a population analysis of a 200 mile radius of Sale 2 and the subject property.

The Board does not find Mr. Slack's "location" adjustments credible. The Board finds that the Fort Collins location for the subject property was selected to serve the entire northwest portion of the country – which includes a population much greater than the population located within a 200 mile radius of the subject property. The Board finds that the subject property is a regional brewery (not a local brewery). Mr. Slack's adjustments for location relate solely to density of population, which may be appropriate for a local brewery but are not appropriate for a regional brewery. Insufficient justification was presented to indicate that the location of Sale 2 was superior to the subject property. Insufficient evidence was also presented to justify the amount of the location adjustment made to Sale 2.

Based on the record, the Board does not believe Mr. Slack's negative adjustments for "location" are appropriate in analyzing the comparable sales. In fact, the Board believes that a

positive location adjustment to Sale 2 (which is located in Pennsylvania) might well be appropriate to adjust for the subject property's superior location to serve the northwest U.S.

In testimony, Mr. Slack indicated that the purchaser of Sale 2 (Boston Beer, who brews Samuel Adams) is the largest craft brewer in the U.S., brewing more than 2 million barrels per year. He also indicated that, prior to purchasing the Pennsylvania brewery, Boston Beer's only breweries were in Cincinnati and Boston but that those breweries only allowed Boston Beer to brew about 35% of their beer (they needed to contract with an independent brewer to brew the remainder of their beer). Boston Beer purchased the Pennsylvania brewery in Sale 2, where they planned to brew about 1.4 million barrels of their beer per year (or about 70% of their recent annual production) in order to "control their own processes".

The Board believes that the subject property's location in Fort Collins is clearly a better location to serve the northwest U.S. for a brewer, such as Boston Beer, who produces their products in the northeast or mid-west and sells their products throughout the United States. Product transportation costs appear to be a key factor for brewers -- so much so that Coors appears to have closed and sold the Memphis property at a fraction of its investment in favor of expanding a Virginia brewery that was closer to the northeast market where it did not have a major brewery. In analyzing Sale 2, the Board will make a positive qualitative adjustment for location.

Competition Adjustment.

Mr. Slack made a large adjustment to Sale 2 for "competition". Mr. Slack theorized that breweries with less competition, relative to the markets they serve, command a premium when sold. He compared the annual brewing capacity within 500 miles of the subject property, Sale 1 and Sale 2 with the population within 300 miles of each in order to determine the annual brewing capacity per person for that area. He used a 300 mile radius of population because he believes the competitive advantage only extends to about a 250 to 300 mile radius.

With respect to Sale 2, Mr. Slack's analysis indicates that it has less competition relative to the market it serves compared to the subject property. Under Mr. Slack's theory, Sale 2 commanded a premium price when sold -- justifying a 20% negative adjustment to Sale 2 for competition.

The Board does not find Mr. Slack's "competition" adjustment credible. First, the Board does not believe that Mr. Slack's use of a 300 mile radius of population is appropriate. While such a radius may be appropriate for local breweries located in the northeast and southern regions of the United States, the subject property obviously serves a much larger geographical area. Limiting the analysis of the subject property to the population within a 300 mile radius of Fort Collins is simply not credible. The Board highly doubts that Anheuser Busch would have made the decisions to build the Fort Collins brewery in 1988 and expand it in 2002 given the large capacity of the Coors brewery in Golden if the competitive advantage of the Fort Collins brewery was to serve the population within a 300 mile radius of Fort Collins.

The Board also does not believe that the only likely potential buyer for the subject property would be a craft brewer such as Boston Beer or D.G. Yuengling. The subject property

serves a very large demand in the United States for high gravity beers such as Budweiser, Coors and Miller. While there was some evidence presented that craft beers have had an impact on the sales of Budweiser, Coors and Miller products, these products are still very much in demand.

As noted in Mr. Slack's report, Anheuser-Busch and MillerCoors control 90% of the brewery production in the United States. Evidence in the record indicates that the capacity of the subject property is largely being used. No credible evidence was presented that Anheuser-Busch has plans to meet the demand for its products by using other facilities. In the event the subject property were sold, the Board does not believe that the highest and best use of the property would be for brewing craft beers – especially when a market exists for using the property to brew high gravity non-craft beer, and the facility is designed to brew such products.

Based on the record, the Board does not believe an adjustment for “competition” is appropriate in analyzing the comparable sales.

Size Adjustment.

In the Size/Design-Quality section of his report, Mr. Slack made a 25% negative adjustment to Sale 2 for size.

The Board does not find Mr. Slack's adjustment for the size of Sale 2 credible. The support he provides for the very large negative adjustment is a statement that a smaller property will command a higher price per square foot “all other factors being equal”. Clearly, all other factors are not equal when comparing the subject property to Sale 2. Also, insufficient explanation was given on how Mr. Slack determined that 25% was the appropriate adjustment. Furthermore, the fact that Sale 1 was larger and sold for less per square foot than Sale 2, does not explain the 25% reduction in Sale 2. The facts surrounding the two sales (Sale 1 and Sale 2) were very different. Based on the record, the Board does not believe a 25% negative adjustment for “size” is appropriate in analyzing Sale 2.

Market Approach Summary

In summary, the Board found Petitioner's market approach to have provided only one reasonably comparable sale. The Board was not convinced by Petitioner's reasoning, analysis and adjustment of the comparable sales and found it necessary to produce a supportable value indication on the basis of the information presented. The Board's analysis leads to a value indication using the market approach exceeding \$75,071,982. This does not include the stipulated amount of \$3,600,000 related to deferred maintenance for roof repairs for the subject property. Taking into account the deferred maintenance and the qualitative adjustment relating to location, the indicated value of the subject property using the market approach exceeds \$71,500,000 ($\$75,071,982 \text{ minus } \$3,600,000 = \text{>} \$71,471,982$, rounded to $\text{>} \$71,500,000$).

Cost Approach Analysis

The Court of Appeals ordered the Board to re-determine the value of the subject property and to explain its analysis. To that end, the Board has also revisited the cost approach. In its analysis below, the Board has considered Petitioner's 51.2 percent physical depreciation figure

and Petitioner's 55 percent external obsolescence figure as directed by the Court of Appeals. The Board has also accepted and used the stipulated \$3,600,000 in roof repairs in its analysis of the cost approach below.

The parties have five primary differences in their analyses of the property value using the cost approach: (1) the appropriate cost new of beer cellars and coolers; (2) whether 165,511 square feet of space should be included in the replacement cost new of the property; (3) the correct amount of physical depreciation; (4) the correct amount of functional obsolescence; and (5) the correct amount of external obsolescence. The Board will address each of these differences below.

Replacement Cost New.

The two largest differences between the parties with respect to the appropriate figure to be used for replacement cost new relate to the appropriate cost new of beer cellars and coolers and whether 165,511 square feet of space should be included in the replacement cost new of the property. See Petitioner's Exhibit 7, page 3. Not including these differences, the replacement cost new used by the parties are within 4% of each other with a replacement cost new calculation by Petitioner of \$123,376,453 and a replacement cost new calculation by Respondent of \$128,218,894. With the exception of the two largest differences, the Board has more confidence in the replacement cost new used by Respondent. Accordingly, the Board will use \$128,218,894 as the beginning point for analyzing replacement cost new.

The Board agrees with Petitioner that the appropriate cost new of the beer cellars and coolers is \$27,839,416 (see Petitioner's Exhibit 7, page 3). The Board is convinced that Respondent's use of \$316.71 per square foot for the beer cellars is excessive. Petitioner's use of \$165.44 per square foot is more appropriate. The Board also agrees with Petitioner's exclusion of replacement cost new for cooling. The difference between the parties relating to this issue was \$35,593,493. A reduction relating to this issue was already made to arrive at the \$128,218,894 beginning point for analyzing replacement cost new. No additional adjustment is needed.

The Board disagrees with Petitioner's exclusion in replacement cost new of 165,511 square feet associated with fermenters in building 1, packaging space in building 2, and office space in building 3. See Petitioner's Exhibit 7, page 3. The Board believes these areas are appropriate to consider in the replacement cost new of the property. However, the Board does not agree with the \$316.71 per square foot amount used by Respondent for the building 1 fermenters. The Board believes that \$165.44 per square foot for the building 1 fermenters is appropriate. Accordingly, the building 1 fermenters were overvalued by Respondent in an amount equal to \$11,675,170. In order to add back the amount deemed "unnecessary" by Petitioner, but found necessary by the Board, the beginning point for analyzing replacement cost new of \$128,218,894 is increased by \$22,453,682 (\$34,128,852 minus \$11,675,170 = \$22,453,682).

Based on the Board's adjustments, the replacement cost new for the property is \$150,672,576 (\$128,218,894 plus \$22,453,682).

Deferred Maintenance/Roof Repairs.

The Board accepts the stipulation of the parties with respect to the \$3,600,000 in roof repairs.

Physical Depreciation.

Petitioner used market extraction to derive a physical depreciation percentage of 51.2%. Respondent used a combination of Marshall & Swift depreciation and Straight-Line depreciation. Respondent weighted the Marshall & Swift depreciation 30% and the Straight-Line depreciation 70% to come up with Replacement Cost New Less Depreciation of \$114,292,000. This resulted in a physical depreciation percentage of 42.26% (RCN of \$197,941,240 minus RCNLD of \$114,292,000 = \$83,649,240 depreciation. $\$83,649,240/\$197,941,240 = .4226$ or 42.26%).

The Board believes Respondent's calculation of physical depreciation is more appropriate than the market extraction used by Petitioner. Petitioner's appraiser, Mr. Slack, used Sales 1, 2 and 3 in his report to derive a total depreciation figure of 80%. Mr. Slack testified that he "estimated depreciation from all causes of 80 percent, and basically, it's – it's to some extent, appraisal – purely appraisal judgment...". The Board did not find the market extraction methodology used by Mr. Slack convincing. The sales used by Mr. Slack to derive depreciation required significant adjustments to make them comparable to the subject. Given the adjustments needed to make these sales comparable to the subject property and the uses of the comparable properties after sale, the Board believes the market extraction methodology used by Mr. Slack is less reliable.

In determining depreciation, Respondent took into account two approaches to depreciation which identified the limits of value for the subject property and then appropriately reconciled the two approaches. The Board agrees with Respondent's methodology and will use Respondent's physical depreciation percentage of 42.26%.

Based on the use of 42.26% as the appropriate depreciation percentage, the physical depreciation is \$63,674,231 ($\$150,672,576 \times .4226 = \$63,674,231$).

Functional Obsolescence.

Respondent calculated functional obsolescence of \$1,831,000 (see pages 31 and 32 of Respondent's Exhibit A). The Board agrees with Respondent's calculation for functional obsolescence.

External Obsolescence.

Petitioner used market extraction to derive an external obsolescence percentage of 55%. This method was deemed less reliable by the Board as explained above. Respondent determined external obsolescence by analyzing the production of the subject property below capacity level after adjusting for structural loss because of product mix, maintenance and downtime. While external market forces may have been causing a nationwide reduction in beer production, there has been little such reduction in the subject property's production. Based on this analysis,

Respondent determined external obsolescence of 4.5%. The Board finds Respondent's approach more credible.

The Board agrees with Respondent's determination of 4.5% external obsolescence. The external obsolescence is \$6,780,266 ($\$150,672,576 \times .045 = \$6,780,266$).

The Board accepts the stipulation of the parties with respect to the \$4,750,000 value of the land.

Accordingly, the value of the subject property as indicated by the cost approach is as follows:

Replacement Cost New		\$150,672,576
Less:		
Deferred Maintenance/Roof Repairs	\$ 3,600,000	
Physical Depreciation	\$63,674,231	
Functional Obsolescence	\$ 1,831,000	
External Obsolescence	<u>\$ 6,780,266</u>	
		<u>\$ (75,885,497)</u>
Depreciated Improvement Value		\$ 74,787,079
Add:		
Stipulated Land Value		<u>\$ 4,750,000</u>
Indicated Value by the Cost Approach:		\$ 79,537,079
Rounded to:		\$ 79,500,000

Conclusion

After the Board's analysis of the information presented, the following are the adjusted value indications:

Market:	>\$71,500,000
Cost:	\$79,500,000
Income:	Not applied

The Board believes the cost approach provided the most supportable indication of actual value. The market approach was given secondary weight. Respondent's omission of a market approach allowed for the potential that the market value could be overstated. The Board found Petitioner's adjustments for depreciation were not compelling as they were derived from transactions of older and less efficient brewery sales. The Board was also swayed by the high level of efficiency at the plant.

The Board concludes that the 2013 actual value of the subject property should be reduced to \$78,000,000.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

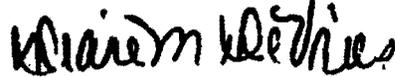
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 10th day of December, 2015.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



MaryKay Kelley



Gregg Near

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Milla Lishchuk